

## **22.7 Confidential records.**

The following public records shall be kept confidential, unless otherwise ordered by a court, by the lawful custodian of the records, or by another person duly authorized to release such information:

1. Personal information in records regarding a student, prospective student, or former student maintained, created, collected or assembled by or for a school corporation or educational institution maintaining such records. This subsection shall not be construed to prohibit a postsecondary education institution from disclosing to a parent or guardian information regarding a violation of a federal, state, or local law, or institutional rule or policy governing the use or possession of alcohol or a controlled substance if the child is under the age of twenty-one years and the institution determines that the student committed a disciplinary violation with respect to the use or possession of alcohol or a controlled substance regardless of whether that information is contained in the student's education records.
2. Hospital records, medical records, and professional counselor records of the condition, diagnosis, care, or treatment of a patient or former patient or a counselee or former counselee, including outpatient. However, confidential communications between a crime victim and the victim's counselor are not subject to disclosure except as provided in section 915.20A. However, the Iowa department of public health shall adopt rules which provide for the sharing of information among agencies and providers concerning the maternal and child health program including but not limited to the statewide child immunization information system, while maintaining an individual's confidentiality.
3. Trade secrets which are recognized and protected as such by law.
4. Records which represent and constitute the work product of an attorney, which are related to litigation or claim made by or against a public body.
5. Peace officers' investigative reports, and specific portions of electronic mail and telephone billing records of law enforcement agencies if that information is part of an ongoing investigation, except where disclosure is authorized elsewhere in this Code. However, the date, time, specific location, and immediate facts and circumstances surrounding a crime or incident shall not be kept confidential under this section, except in those unusual circumstances where disclosure would plainly and seriously jeopardize an investigation or pose a clear and present danger to the safety of an individual. Specific portions of electronic mail and telephone billing records may only be kept confidential under this subsection if the length of time prescribed for commencement of prosecution or the finding of an indictment or information under the statute of limitations applicable to the crime that is under investigation has not expired.
6. Reports to governmental agencies which, if released, would give advantage to competitors and serve no public purpose.
7. Appraisals or appraisal information concerning the purchase of real or personal property for public purposes, prior to public announcement of a project.
8. Iowa department of economic development information on an industrial prospect with which the department is currently negotiating.
9. Criminal identification files of law enforcement agencies. However, records of current and prior arrests and criminal history data shall be public records.
10. Personal information in confidential personnel records of the military division of the department of public defense of the state.
11. Personal information in confidential personnel records of public bodies including but not limited to cities,

boards of supervisors and school districts.

12. Financial statements submitted to the department of agriculture and land stewardship pursuant to chapter 203 or chapter 203C, by or on behalf of a licensed grain dealer or warehouse operator or by an applicant for a grain dealer license or warehouse license.

13. The records of a library which, by themselves or when examined with other public records, would reveal the identity of the library patron checking out or requesting an item or information from the library. The records shall be released to a criminal or juvenile justice agency only pursuant to an investigation of a particular person or organization suspected of committing a known crime. The records shall be released only upon a judicial determination that a rational connection exists between the requested release of information and a legitimate end and that the need for the information is cogent and compelling.

14. The material of a library, museum or archive which has been contributed by a private person to the extent of any limitation that is a condition of the contribution.

15. Information concerning the procedures to be used to control disturbances at adult correctional institutions. Such information shall also be exempt from public inspection under section 17A.3. As used in this subsection disturbance means a riot or a condition that can reasonably be expected to cause a riot.

16. Information in a report to the Iowa department of public health, to a local board of health, or to a local health department, which identifies a person infected with a reportable disease.

17. Records of identity of owners of public bonds or obligations maintained as provided in section 76.10 or by the issuer of the public bonds or obligations. However, the issuer of the public bonds or obligations and a state or federal agency shall have the right of access to the records.

18. Communications not required by law, rule, procedure, or contract that are made to a government body or to any of its employees by identified persons outside of government, to the extent that the government body receiving those communications from such persons outside of government could reasonably believe that those persons would be discouraged from making them to that government body if they were available for general public examination. As used in this subsection, "*persons outside of government*" does not include persons or employees of persons who are communicating with respect to a consulting or contractual relationship with a government body or who are communicating with a government body with whom an arrangement for compensation exists. Notwithstanding this provision:

*a.* The communication is a public record to the extent that the person outside of government making that communication consents to its treatment as a public record.

*b.* Information contained in the communication is a public record to the extent that it can be disclosed without directly or indirectly indicating the identity of the person outside of government making it or enabling others to ascertain the identity of that person.

*c.* Information contained in the communication is a public record to the extent that it indicates the date, time, specific location, and immediate facts and circumstances surrounding the occurrence of a crime or other illegal act, except to the extent that its disclosure would plainly and seriously jeopardize a continuing investigation or pose a clear and present danger to the safety of any person. In any action challenging the failure of the lawful custodian to disclose any particular information of the kind enumerated in this paragraph, the burden of proof is on the lawful custodian to demonstrate that the disclosure of that information would jeopardize such an investigation or would pose such a clear and present danger.

19. Examinations, including but not limited to cognitive and psychological examinations for law enforcement officer candidates administered by or on behalf of a governmental body, to the extent that their disclosure

could reasonably be believed by the custodian to interfere with the accomplishment of the objectives for which they are administered.

20. Information concerning the nature and location of any archaeological resource or site if, in the opinion of the state archaeologist, disclosure of the information will result in unreasonable risk of damage to or loss of the resource or site where the resource is located. This subsection shall not be construed to interfere with the responsibilities of the federal government or the state historic preservation officer pertaining to access, disclosure, and use of archaeological site records.

21. Information concerning the nature and location of any ecologically sensitive resource or site if, in the opinion of the director of the department of natural resources after consultation with the state ecologist, disclosure of the information will result in unreasonable risk of damage to or loss of the resource or site where the resource is located. This subsection shall not be construed to interfere with the responsibilities of the federal government or the director of the department of natural resources and the state ecologist pertaining to access, disclosure, and use of the ecologically sensitive site records.

22. Reports or recommendations of the Iowa insurance guaranty association filed or made pursuant to section 515B.10, subsection 1, paragraph "a", subparagraph (2).

23. Information or reports collected or submitted pursuant to section 508C.12, subsections 3 and 5, and section 508C.13, subsection 2, except to the extent that release is permitted under those sections.

24. Records of purchases of alcoholic liquor from the alcoholic beverages division of the department of commerce which would reveal purchases made by an individual class "E" liquor control licensee. However, the records may be revealed for law enforcement purposes or for the collection of payments due the division pursuant to section 123.24.

25. Financial information, which if released would give advantage to competitors and serve no public purpose, relating to commercial operations conducted or intended to be conducted by a person submitting records containing the information to the department of agriculture and land stewardship for the purpose of obtaining assistance in business planning.

26. Applications, investigation reports, and case records of persons applying for county general assistance pursuant to section 252.25.

27. Marketing and advertising budget and strategy of a nonprofit corporation which is subject to this chapter. However, this exemption does not apply to salaries or benefits of employees who are employed by the nonprofit corporation to handle the marketing and advertising responsibilities.

28. The information contained in records of the centralized employee registry created in chapter 252G, except to the extent that disclosure is authorized pursuant to chapter 252G.

29. Records and information obtained or held by independent special counsel during the course of an investigation conducted pursuant to section 68B.31A. Information that is disclosed to a legislative ethics committee subsequent to a determination of probable cause by independent special counsel and made pursuant to section 68B.31 is not a confidential record unless otherwise provided by law.

30. Information contained in a declaration of paternity completed and filed with the state registrar of vital statistics pursuant to section 144.12A, except to the extent that the information may be provided to persons in accordance with section 144.12A.

31. Memoranda, work products, and case files of a mediator and all other confidential communications in the possession of a mediator, as provided in chapters 86 and 216. Information in these confidential

communications is subject to disclosure only as provided in sections 86.44 and 216.15B, notwithstanding any other contrary provision of this chapter.

32. Social security numbers of the owners of unclaimed property reported to the treasurer of state pursuant to section 556.11, subsection 2, included on claim forms filed with the treasurer of state pursuant to section 556.19, included in outdated warrant reports received by the treasurer of state pursuant to section 556.2C, or stored in record systems maintained by the treasurer of state for purposes of administering chapter 556, or social security numbers of payees included on state warrants included in records systems maintained by the department of administrative services for the purpose of documenting and tracking outdated warrants pursuant to section 556.2C.

33. Data processing software, as defined in section 22.3A, which is developed by a government body.

34. A record required under the Iowa financial transaction reporting Act listed in section 529.2, subsection 9.

35. Records of the Iowa department of public health pertaining to participants in the gambling treatment program except as otherwise provided in this chapter.

36. Records of a law enforcement agency or the state department of transportation regarding the issuance of a driver's license under section 321.189A.

37. Mediation communications as defined in section 679C.102, except written mediation agreements that resulted from a mediation which are signed on behalf of a governing body. However, confidentiality of mediation communications resulting from mediation conducted pursuant to chapter 216 shall be governed by chapter 216.

38. *a.* Records containing information that would disclose, or might lead to the disclosure of, private keys used in an electronic signature or other similar technologies as provided in chapter 554D.

*b.* Records which if disclosed might jeopardize the security of an electronic transaction pursuant to chapter 554D.

39. Information revealing the identity of a packer or a person who sells livestock to a packer as reported to the department of agriculture and land stewardship pursuant to section 202A.2.

40. The portion of a record request that contains an internet protocol number which identifies the computer from which a person requests a record, whether the person using such computer makes the request through the IowAccess network or directly to a lawful custodian. However, such record may be released with the express written consent of the person requesting the record.

41. Medical examiner records and reports, including preliminary reports, investigative reports, and autopsy reports. However, medical examiner records and reports shall be released to a law enforcement agency that is investigating the death, upon the request of the law enforcement agency, and autopsy reports shall be released to the decedent's immediate next of kin upon the request of the decedent's immediate next of kin unless disclosure to the decedent's immediate next of kin would jeopardize an investigation or pose a clear and present danger to the public safety or the safety of an individual. Information regarding the cause and manner of death shall not be kept confidential under this subsection unless disclosure would jeopardize an investigation or pose a clear and present danger to the public safety or the safety of an individual.

42. Information obtained by the commissioner of insurance in the course of an investigation as provided in section 523C.23.

43. Information obtained by the commissioner of insurance pursuant to section 502.607.

44. Information provided to the court and state public defender pursuant to section 13B.4, subsection 5; section 814.11, subsection 7; or section 815.10, subsection 5.

45. The critical asset protection plan or any part of the plan prepared pursuant to section 29C.8 and any information held by the homeland security and emergency management division that was supplied to the division by a public or private agency or organization and used in the development of the critical asset protection plan to include, but not be limited to, surveys, lists, maps, or photographs. However, the administrator shall make the list of assets available for examination by any person. A person wishing to examine the list of assets shall make a written request to the administrator on a form approved by the administrator. The list of assets may be viewed at the division's offices during normal working hours. The list of assets shall not be copied in any manner. Communications and asset information not required by law, rule, or procedure that are provided to the administrator by persons outside of government and for which the administrator has signed a nondisclosure agreement are exempt from public disclosures. The homeland security and emergency management division may provide all or part of the critical asset plan to federal, state, or local governmental agencies which have emergency planning or response functions if the administrator is satisfied that the need to know and intended use are reasonable. An agency receiving critical asset protection plan information from the division shall not disseminate the information without prior approval of the administrator.

46. Military personnel records recorded by the county recorder pursuant to section 331.608.

47. A report regarding interest held in agricultural land required to be filed pursuant to chapter 10B.

48. Sex offender registry records under chapter 692A, except as provided in section 692A.13.

49. Confidential information, as defined in section 86.45, subsection 1, filed with the workers' compensation commissioner.

50. Information concerning security procedures or emergency preparedness information developed and maintained by a government body for the protection of governmental employees, visitors to the government body, persons in the care, custody, or under the control of the government body, or property under the jurisdiction of the government body, if disclosure could reasonably be expected to jeopardize such employees, visitors, persons, or property.

*a.* Such information includes but is not limited to information directly related to vulnerability assessments; information contained in records relating to security measures such as security and response plans, security codes and combinations, passwords, restricted area passes, keys, and security or response procedures; emergency response protocols; and information contained in records that if disclosed would significantly increase the vulnerability of critical physical systems or infrastructures of a government body to attack.

*b.* This subsection shall only apply to information held by a government body that has adopted a rule or policy identifying the specific records or class of records to which this subsection applies and which is contained in such a record.

51. The information contained in the information program established in section 124.551, except to the extent that disclosure is authorized pursuant to section 124.553.

52. *a.* The following records relating to a charitable donation made to a foundation acting solely for the support of an institution governed by the state board of regents, to a foundation acting solely for the support of an institution governed by chapter 260C, to a private foundation as defined in section 509 of the Internal Revenue Code organized for the support of a government body, or to an endow Iowa qualified community foundation, as defined in section 15E.303, organized for the support of a government body:

(1) Portions of records that disclose a donor's or prospective donor's personal, financial, estate planning, or gift planning matters.

(2) Records received from a donor or prospective donor regarding such donor's prospective gift or pledge.

(3) Records containing information about a donor or a prospective donor in regard to the appropriateness of the solicitation and dollar amount of the gift or pledge.

(4) Portions of records that identify a prospective donor and that provide information on the appropriateness of the solicitation, the form of the gift or dollar amount requested by the solicitor, and the name of the solicitor.

(5) Portions of records disclosing the identity of a donor or prospective donor, including the specific form of gift or pledge that could identify a donor or prospective donor, directly or indirectly, when such donor has requested anonymity in connection with the gift or pledge. This subparagraph does not apply to a gift or pledge from a publicly held business corporation.

*b.* The confidential records described in paragraph "*a*", subparagraphs (1) through (5), shall not be construed to make confidential those portions of records disclosing any of the following:

(1) The amount and date of the donation.

(2) Any donor-designated use or purpose of the donation.

(3) Any other donor-imposed restrictions on the use of the donation.

(4) When a pledge or donation is made expressly conditioned on receipt by the donor, or any person related to the donor by blood or marriage within the third degree of consanguinity, of any privilege, benefit, employment, program admission, or other special consideration from the government body, a description of any and all such consideration offered or given in exchange for the pledge or donation.

*c.* Except as provided in paragraphs "*a*" and "*b*", portions of records relating to the receipt, holding, and disbursement of gifts made for the benefit of regents institutions and made through foundations established for support of regents institutions, including but not limited to written fund-raising policies and documents evidencing fund-raising practices, shall be subject to this chapter.

*d.* This subsection does not apply to a report filed with the ethics and campaign disclosure board pursuant to section 8.7.

53. Information obtained and prepared by the commissioner of insurance pursuant to section 507.14.

54. Information obtained and prepared by the commissioner of insurance pursuant to section 507E.5.

55. An intelligence assessment and intelligence data under chapter 692, except as provided in section 692.8A.

56. Individually identifiable client information contained in the records of the state database created as a homeless management information system pursuant to standards developed by the United States department of housing and urban development and utilized by the Iowa department of economic development.

57. The following information contained in the records of any governmental body relating to any form of housing assistance:

*a.* An applicant's social security number.

b. An applicant's personal financial history.

c. An applicant's personal medical history or records.

d. An applicant's current residential address when the applicant has been granted or has made application for a civil or criminal restraining order for the personal protection of the applicant or a member of the applicant's household.

58. Information filed with the commissioner of insurance pursuant to sections 523A.204 and 523A.502A.

59. The information provided in any report, record, claim, or other document submitted to the treasurer of state pursuant to chapter 556 concerning unclaimed or abandoned property, except the name and last known address of each person appearing to be entitled to unclaimed or abandoned property paid or delivered to the treasurer of state pursuant to that chapter.

60. Information possessed by the office of energy independence, the Iowa power fund board, or the due diligence committee associated with the office and the board, relating to a prospective applicant with which the office, board, or committee is currently negotiating, or an award recipient, shall only be released as provided in section 469.6, subsection 6.

61. Information in a record that would permit a governmental body subject to chapter 21 to hold a closed session pursuant to section 21.5 in order to avoid public disclosure of that information, until such time as final action is taken on the subject matter of that information. Any portion of such a record not subject to this subsection, or not otherwise confidential, shall be made available to the public. After the governmental body has taken final action on the subject matter pertaining to the information in that record, this subsection shall no longer apply. This subsection shall not apply more than ninety days after a record is known to exist by the governmental body, unless it is not possible for the governmental body to take final action within ninety days. The burden shall be on the governmental body to prove that final action was not possible within the ninety-day period.

[C71, 73, 75, 77, 79, 81, § 68A.7; 81 Acts, ch 36, § 1, ch 37, § 1, ch 38, § 1, ch 62, § 4]

83 Acts, ch 90, § 9; 84 Acts, ch 1014, § 1; 84 Acts, ch 1185, § 5, 6

C85, § 22.7

85 Acts, ch 134, §16; 85 Acts, ch 175, §1; 85 Acts, ch 208, §1; 86 Acts, ch 1184, §1; 86 Acts, ch 1228, §1; 87 Acts, ch 223, § 20; 88 Acts, ch 1010, § 1; 88 Acts, ch 1256, § 1; 89 Acts, ch 194, § 1; 89 Acts, ch 304, § 102; 89 Acts, ch 311, § 22; 90 Acts, ch 1017, §1; 90 Acts, ch 1271, §703; 92 Acts, ch 1212, § 3; 93 Acts, ch 79, §2; 93 Acts, ch 163, §27; 94 Acts, ch 1023, §76; 94 Acts, ch 1064, §1; 94 Acts, ch 1092, §1; 94 Acts, ch 1174, §1; 95 Acts, ch 100, § 1; 95 Acts, ch 129, § 1; 95 Acts, ch 191, § 1; 96 Acts, ch 1037, § 1; 96 Acts, ch 1099, § 16; 96 Acts, ch 1133, § 38; 96 Acts, ch 1150, § 1; 96 Acts, ch 1212, § 10; 97 Acts, ch 92, §1; 97 Acts, ch 159, §1; 98 Acts, ch 1062, §8, 9; 98 Acts, ch 1073, § 9; 98 Acts, ch 1090, § 59, 84; 99 Acts, ch 88, §1, 11, 13; 99 Acts, ch 146, §43; 2000 Acts, ch 1014, §1; 2000 Acts, ch 1140, §1; 2000 Acts, ch 1147, §27; 2000 Acts, ch 1161, §1; 2000 Acts, ch 1189, §25; 2001 Acts, ch 24, §17; 2001 Acts, ch 108, §1; 2002 Acts, ch 1038, §1; 2002 Acts, ch 1067, §13; 2002 Acts, ch 1076, §2; 2002 Acts, ch 1098, §1; 2002 Acts, ch 1117, §53, 56; 2003 Acts, ch 114, §1; 2003 Acts, ch 145, §286; 2003 Acts, ch 179, §157; 2004 Acts, ch 1091, §3; 2004 Acts, ch 1104, §4; 2004 Acts, ch 1147, §6; 2004 Acts, ch 1161, §65, 68; 2004 Acts, ch 1175, §462, 468; 2005 Acts, ch 19, §16; 2005 Acts, ch 68, §2; 2005 Acts, ch 168, §8, 23; 2006 Acts, ch 1054, §1, 2; 2006 Acts, ch 1117, §2; 2006 Acts, ch 1122, §1; 2006 Acts, ch 1127, §1; 2006 Acts, ch 1147, §1, 11; 2006 Acts, ch 1148, §1; 2006 Acts, ch 1185, §57, 58, 92; 2007 Acts, ch 37, §1; 2007 Acts, ch 62, §1; 2007 Acts, ch 126, §11; 2007 Acts, ch 175, §1; 2008 Acts, ch 1032, §201; 2008 Acts, ch 1144, §2, 12, 13; 2008 Acts, ch 1191, §34, 99

Future repeal of subsection 39 if substantially similar federal legislation or regulation is implemented; finding and order by secretary of agriculture; 99 Acts, ch 88, §11

Subsection 60 takes effect May 7, 2008, and applies to requests relating to applications in process on that date; 2008 Acts, ch 1144, §12, 13

Subsection 61 does not apply to litigation before any court that was filed prior to July 1, 2008; 2008 Acts, ch 1191, §99